

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.

**MEMORANDUM  
TO THE HONORABLE CAROL B. AMON  
Chief United States District Judge**

★ *MAY 18, 2011*  
*entd 6/3/11 cdm* ★  
**LONG ISLAND OFFICE**

**RE: AVELLINO, Salvatore**

**DOCKET NO.: 90-CR-446 (DRH)**

**REQUEST FOR JUDICIAL  
RE-ASSIGNMENT**

The above-captioned individual was originally sentenced by the Honorable Eugene H. Nickerson, Senior U.S. District Judge, on July 29, 1994, to a custodial term of 126 months, to be followed by five consecutive terms of supervised release for a total supervised release term of 21 years (copy of Judgment attached). The releasee pled guilty to five (5) separate counts as detailed below;

- Count 1 - Racketeering, a Class C Felony in violation of 18 USC 1962c;
- Count 29 - Conspiracy to murder Robert Kubecka and Donald Barstow, a Class C Felony in violation of 18 USC 1959(a)(5);
- Count 70 - Interference with commerce by threats or violence, a Class C Felony in violation of 18 USC 1951;
- Count 71 - Interference with commerce by threats or violence, a Class C Felony in violation of 18 USC 1951; and
- Count 72 - Conspiracy to defraud the United States, a Class D Felony in violation of 18 USC 371.

In addition, on March 19, 2001, the releasee pled guilty before the Honorable Denis R. Hurley, Senior U.S. District Judge, to a single count superseding information which charged the releasee with Conspiracy to obstruct, delay, and affect commerce by extortion, a Class D Felony in violation of 18 USC 371. On June 29, 2001, the releasee was sentenced by Judge Hurley to 60 months custody (consecutive to the term of imprisonment previously imposed by the Honorable Eugene H. Nickerson under Docket #90-CR-446), to be followed by a three (3) year term of supervised release.

The releasee completed the custodial portion of the aforementioned sentences on October 13, 2006, at which time the 21 year term of supervised release (Dkt #90-CR-446) and the 3 year term of supervised release (97-CR-1062) commenced. On October 12, 2009, the term of supervised release relative to Docket #97-CR-1062 (DRH) was successfully completed. The releasee continues to serve the term of supervised release imposed relative to 90-CR-446, which has a current expiration date of 10/12/2027.

The Probation Department has received a written request (copy attached) from the releasee for consideration that his term of supervised release be terminated. The releasee cites a number of reasons why his term of supervision should be terminated and the Probation Department believes that portions of the releasee's argument may have merit. In order to appropriately address the releasee's request, we would like to receive guidance from the Court.

1194

AVELLINO, Salvatore

Docket#90-CR-446

2

Due to the passing of Judge Nickerson, Docket# 90-CR-446 will require re-assignment. The Probation Department has consulted with Judge Hurley regarding the request received from the releasee, and he understands the Probation Department's position and desire for judicial guidance. Judge Hurley has advised that he is amenable to receiving jurisdiction of Docket #90-CR-446 in order to address the issue now presented to the Probation Department, provided the transfer is approved by Your Honor. It is also noted that the releasee is presently a resident of St. James, NY, which is located in Suffolk County. As such, it is respectfully requested that jurisdiction of Docket# 90-CR-446 be ordered transferred to the Honorable Denis R. Hurley, Senior U.S. District Judge. Upon re-assignment, the Probation Department will present Judge Hurley with a separate memorandum outlining the issues related to the releasee's request and our position with respect to his termination request. In addition, we will also consult with the U.S. Attorney's Office, so that they may make their position known to the Court as well.

Below is an Order which Your Honor may utilize to convey the Court's direction in this matter. Should Your Honor require any additional information, the undersigned officer may be reached at (631) 712-6325.

RESPECTFULLY SUBMITTED:

EILEEN KELLY  
CHIEF U.S. PROBATION OFFICER

PREPARED BY:



Edward J. Kanaley  
Senior U.S. Probation Officer

APPROVED BY:



David J. Washington  
Supervising U.S. Probation Officer

May 13, 2011

ORDER OF THE COURT

JURISDICTION OF DOCKET# 90-CR-446 IS HEREBY:

TRANSFERRED TO THE  
HONORABLE DENIS R. HURLEY,  
SENIOR U.S. DISTRICT JUDGE:

 The Honorable Carol B. Amon  
Chief U.S. District Judge

Date

18-11

OTHER: \_\_\_\_\_